

FILED  
 UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

08 APR 14 AM 11:08

UNITED STATES OF AMERICA,

Plaintiff,

v.

Marcelo NUNEZ-Vela,

Defendant

Magistrate Docket No.

08 MJ 1130

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326  
 Deported Alien Found in the  
 United States

The undersigned complainant, being duly sworn, states:

On or about **April 10, 2008** within the Southern District of California, defendant, **Marcelo NUNEZ-Vela**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

Ismael A. Canto  
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 14<sup>th</sup> DAY OF APRIL, 2008



Barbara L. Major  
 UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:****Marcelo NUNEZ-Vela****PROBABLE CAUSE STATEMENT**

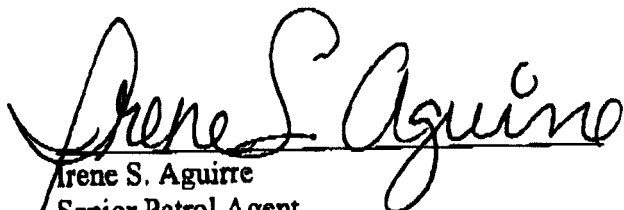
I declare under the penalty of perjury that the following statement is true and correct:

On April 10, 2008 at approximately 10:30 P.M., dispatch advised via service radio of a seismic sensor activation near the area commonly known as, the "Sand Piles". This area is approximately 5 miles west of the San Ysidro, California, Port of Entry and 500 yards north of the United States/Mexico International Boundary Fence. While performing line watch operations, Senior Patrol Agent L. Mescia, responded to the area, and after a brief search found an individual hiding in some brush in an attempt to conceal himself. Due to the fact that this area is frequently used by undocumented aliens to further their entry into the United States, Agent Mescia identified himself as a Border Patrol Agent, and conducted an immigration inspection. The defendant, later identified as **Marcelo NUNEZ-Vela**, admitted to being a citizen and national of Mexico illegally in the United States, and did not possess any documents that would allow him to legally enter or remain in the United States. At approximately 10:45 P.M. Agent Mescia arrested the defendant and transported him to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on January 27, 1993 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on April 12, 2008 at 10:00 a.m.

  
Irene S. Aguirre  
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on April 10, 2008 in violation of Title 8, United States Code, Section 1326.

  
Barbara L. Major  
United States Magistrate Judge

4/12/08 at 11:17am  
Date/Time